

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION - TOLEDO

MARCIA TIMMS, et al.,

Plaintiffs,

vs.

MEARS GROUP, INC., et al.

Defendants,

CASE NO.

(CASE NO. G-4801-CI-0202002448-000
REMOVED FROM LUCAS COUNTY
COURT OF COMMON PLEAS)

JUDGE _____

**NOTICE OF REMOVAL TO FEDERAL
COURT BY DEFENDANT MEARS
GROUP, INC.**

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO, WESTERN DIVISION - TOLEDO

Pursuant to 28 U.S.C. §1441 and §1446, Defendant Mears Group, Inc. (“Mears”), hereby gives notice of the removal of the above-referenced matter from the Common Pleas Court of Lucas County, Ohio, in which it is now pending, to the United States District Court for the Northern District of Ohio, Western Division - Toledo.

1. This is a personal injury action that was filed in the Common Pleas Court of Lucas County, Ohio on July 2, 2020, bearing Case No. G-4801-CI-0202002448-000. The Complaint names two defendants: Mears Group, Inc. (“Mears”) and Kevin McCann (“McCann”). A copy of the Complaint is attached hereto as Exhibit A.

2. Plaintiffs, Marcia Timms and Steven Timms are, and have been at all times relevant herein, residents and citizens of the state of Ohio.

3. Defendant Mears is a corporation, organized, registered and existing under the laws of the State of Delaware, with its principal place of business in the state of Michigan. As such, Defendant Mears is a citizen of the states of Delaware and Michigan.

4. Defendant Kevin McCann is a citizen of the state of Michigan.

5. According to the Complaint, Plaintiffs demand judgment against Defendants in an amount in excess of \$25,000.00. Plaintiff Marcia Timms alleges injuries to her head, face, neck, arms, wrist, back, and legs. Plaintiff Marcia Timms alleges she incurred medical bills and that she experienced physical and mental pain and suffering and lost the ability to perform usual activities, resulting in a diminished quality of life. Plaintiff Steven Timms seeks separate damages for loss of consortium. Plaintiffs are also seeking punitive damages.

6. Further, Plaintiffs have issued a demand to Defendants well in excess of \$75,000.00. As such, it is Defendants' good faith belief that the amount in controversy exceeds the jurisdictional amount of \$75,000.00, exclusive of interest and costs, if all of its defenses fail and if Plaintiffs prove all of their claimed damages as alleged in the Complaint.

7. Since Plaintiffs are Ohio residents, and Defendants are citizens of Delaware and Michigan, there exists complete diversity of citizenship between Plaintiffs and Defendants. Because the amount in controversy is greater than \$75,000.00, this action may therefore be removed from state court to Federal Court pursuant to 28 U.S.C. §§ 1332 and 1441.

8. Defendant Mears was served with the Summons and Complaint on July 13, 2020.

9. On information and belief, and as evidenced in Exhibit A, Defendant McCann has not yet been served with the Summons and Complaint and thus, under 28 U.S.C. § 1446(b)(2)(A), Defendant McCann's consent to this removal is not required.

10. Defendants attach hereto a copy of all process, pleadings and orders on file in the state proceeding and a copy of the Notice of Filing Notice of Removal, which Defendants will serve upon Plaintiffs promptly after the filing of this Notice of Removal, pursuant to 28 U.S.C. § 1446(a). See Exhibit A.

11. Defendant will file a copy of the Notice of Removal with the Clerk of the Common Pleas Court of Lucas County, Ohio immediately after filing hereof.

12. No further proceedings have commenced in this action in the Common Pleas Court of Lucas County, Ohio.

Respectfully submitted

/s/ Lidia B. Ebersole

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ATTORNEYS FOR DEFENDANTS
MEARS GROUP, INC.

PROOF OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing has been served upon the following parties via the Court's electronic filing system this 7th day of August, 2020:

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MARCIA TIMMS AND STEVEN TIMMS

/s/ Lidia B. Ebersole
One of the Attorneys for Defendants